

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/823,081	EUSTACE, ROBERT ALAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian J. Detwiler	2173	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 29 June 2004.
2. ☒ The allowed claim(s) is/are 1-64.
3. ☒ The drawings filed on 29 March 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Patrick Keane on 10 December 2004.

The application has been amended as follows:

Replace claim 1 with:

A media player and media player interface, the media player comprising:

a storage unit for storing media and media related data, said media related data including a selection probability for each item of a plurality of items of said media, wherein said selection probability is, at least in part, determined based on a time of selection of an item and/or a time between the selection of at least two items; and

media selection logic, wherein the media selection logic is responsive to said media player interface;

the media player interface comprising a trigger mechanism, coupled to the media selection logic, wherein said trigger mechanism enables a user to trigger the selection of media by said media selection logic;

the media selection logic configured to:

select an item of said media by reference to said media related data; and

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update said media related data in accordance with the selection of the item of media by the media selection logic.

Replace claim 37 with:

A computer program product for use in conjunction with a computer controlled media player, the computer controlled media player capable of executing a procedure, the computer controlled media player including a storage unit for storing media and media related data, the computer program product comprising a computer readable storage medium and a computer program mechanism embedded therein, comprising:

a media selection module, responsive to trigger signals received from an interface of the media player, including:

instructions for selecting items of the media, in response to the trigger signals, by reference to said media related data;

instructions for updating the media related data in accordance with the selection of the items of media by the media selecting instructions; and

wherein the media related data includes a selection probability for each item of a plurality of items of said media, wherein said selection probability is at least in part determined based on a time of selection of an item and/or a time between the selection of at least two items.

### ***Reasons for Allowance***

The above amendments were made to further clarify and distinguish the allowable subject matter within the application.

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The following is an examiner's statement of reasons for allowance: In combination with the claimed subject matter, the prior art does not teach or fairly suggest determining a selection probability for an item of media based on the time between the selection of at least two items of media or the time at which an item of media was selected. The closest prior art, U.S. Patent No. 6,574,616 (Saghir), teaches adjusting the likelihood of selecting a particular item in response to the selection of other items with no regard to time constraints.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

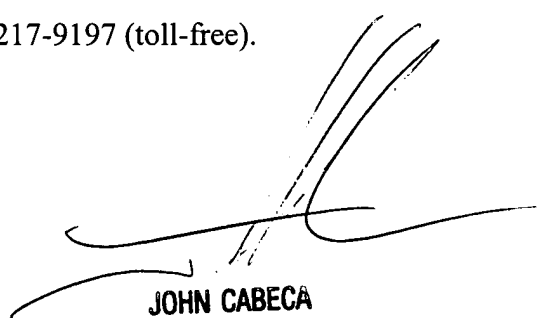
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Detwiler whose telephone number is 571-272-4049. The examiner can normally be reached on Mon-Thu 8-5:30 and alternating Fridays 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 571-272-4048. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bjd



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